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Attorney for plaintiffs

FILED
09 FEB -6 PM 4:16
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

UNITED STATES DISTRICT COURT
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA

'09 CV 0227 BEN AJB

CASE NO.:

COMPLAINT FOR:

- (1) Right of Association**
42 U.S.C. 1983
- (2) Right of Association: Monell**
42 U.S.C. 1983
- (3) Wrongful Death**
42 U.S.C. 1983
- (4) Wrongful Death: Monell**
42 U.S.C. 1983
- (5) Excessive Force**
42 U.S.C. 1983
- (6) Excessive Force: Monell**
42 U.S.C. 1983
- (7) Failure to Properly Screen and Hire**
42 U.S.C. 1983
- (8) Failure to Train, Supervise and Discipline**
42 U.S.C. 1983
- (9) Failure to Supervise and Discipline**
42 U.S.C. 1983

JOSEFA GODINEZ MERIDA, an individual and
ESTATE OF NOE ROJAS, by its personal
representative Josefa Godinez Merida,

Plaintiffs,

v.

CITY OF SAN DIEGO, a municipal corporation,
JACK PEARSON, an individual, PAUL
GALANTE, an individual, SAN DIEGO
POLICE DEPARTMENT, WILLIAM
LANSDOWNE, an individual, and DOES 1-20
inclusive,

Defendants.

DEMAND FOR JURY TRIAL

COME NOW, JOSEFA GODINEZ MERIDA and the ESTATE OF NOE ROJAS, through its personal representative Josefa Godinez Merida, by their attorney of record, Eugene G. Iredale, and allege and complain as follows:

I.
GENERAL ALLEGATIONS

1. Jurisdiction is founded upon the existence of a Federal Question.

2. This is an action to redress the deprivation under color of statute, ordinance, regulation, custom or usage of rights, privileges, and immunities secured to the plaintiff by the First, Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States (42 U.S.C. § 1983) and arising under the law and statutes of the State of California.

3. Jurisdiction is founded upon 28 U.S.C. §1331, §1343(3) and (4), this being an action authorized by law to redress the deprivation under color of law, statute, ordinance, regulation, custom and usage of rights, privileges, and immunities secured to a plaintiff by the First, Fourth and Fourteenth Amendments to the Constitution of the United States.

4. This Court has supplemental jurisdiction over the pendent state law claims under 28 U.S.C. § 1367(a).

5. Venue is proper in the Southern District of California because the acts or omissions which form the basis of the Plaintiff's claims occurred in San Diego, California.

6. The matter in controversy exceeds, exclusive of interest and costs, the jurisdictional minimum of this court of ONE HUNDRED FIFTY THOUSAND (\$150,000.00) DOLLARS.

7. At all times relevant to this complaint, JOSEFA GODINEZ MERIDA was the mother of NOE ROJAS.

8. At all times relevant to this complaint, Noe Rojas was an individual residing in San Diego County, California and his death as set forth in this complaint resulted in the creation of the ESTATE OF NOE ROJAS which brings this suit by its personal representative Josefa Godinez Merida, the mother of Noe Rojas.

9. At all times relevant to this complaint, Defendant CITY OF SAN DIEGO was a municipal corporation operating in San Diego County, California.

10. At all times relevant to this complaint, Defendants JACK PEARSON, PAUL

1 GALANTE and DOES 1-20, were San Diego police officers and agents of the CITY OF SAN
2 DIEGO.

3 11. Plaintiffs are truly ignorant of the true names and capacities of DOES 1 through 20,
4 inclusive, and/or is truly ignorant of the facts giving rise to their liability and will amend this
5 complaint once their identities have been ascertained as well as the facts giving rise to their liability.

6 12. At all times relevant to this complaint, Defendant CITY OF SAN DIEGO (hereinafter
7 "City") was a municipal corporation operating in San Diego County, California.

8 13. Defendant WILLIAM LANSLOWNE (hereinafter "Lansdowne") was the chief of
9 San Diego Police Department (hereinafter "Department") and a policy-maker

10 14. These DOE defendants were agents, servants and employees of each other of the other
11 named defendants and were acting at all times within the full course and scope of their agency and
12 employment, with the full knowledge and consent, either expressed or implied, of their principal
13 and/or employer and each of the other named defendants and each of the defendants had approved or
14 ratified the actions of the other defendants thereby making the currently named defendants herein
15 liable for the acts and/or omissions of their agents, servants and/or employees.

16
17 **II.**
18 **FACTS**

19 15. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same
20 herein by this reference as if those paragraphs were set forth in full herein.

21 16. On February 10, 2007, defendant San Diego County police officers Jack Pearson and
22 Paul Galante shot and killed Plaintiff Noe Rojas in San Diego, California.

23 17. Noe Rojas was seventeen years old.

24 18. Immediately before he was killed, Noe Rojas was driving his car.

25 19. Defendants Jack Pearson and Paul Galante pulled over Noe Rojas for making an
26 illegal u-turn.

27 20. Noe Rojas pulled over into a driveway, but did not come to a stop.

28 21. Defendants Jack Pearson and Paul Galante shot Noe Rojas multiple times with their

1 guns, hitting him eight times.

2 22. Noe Rojas died at the scene as a result of multiple gun shot wounds.

3 23. As a result to Noe Rojas' death, his mother, plaintiff Josepha Godinez Merida, has
4 been deprived of her right of association, including but not limited to her right to speak with, write
5 to, read letters from, and have physical contact with her son.

6 24. No action is pending in California for the administration of Noe Rojas' estate.

7 25. Josepha Godinez Merida is Noe Rojas' successor in interest.

8 26. Noe Rojas did not have a will or any form of testamentary interest when he was
9 killed.

10 27. Noe Rojas was not married and had no children.

11
12 **III.**

13 **FIRST CAUSE OF ACTION**

14 **Right of Association – 42 U.S.C. 1983**

15 **[By Plaintiff Josefa Godinez Merida against defendants Pearson, Galante and Does 1-20]**

16 28. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same
17 herein by this reference as if those paragraphs were set forth in full herein.

18 29. Defendants and DOES 1-20, inclusive, acting under color of state law, deprived Noe
19 Rojas of his rights under the United States Constitution to be free from the use of excessive force by
20 law enforcement, punishment without due process and unlawful stop, search and seizure without
21 reasonable suspicion and probable cause.

22 30. By these acts, the defendants violated Noe Rojas' constitutional rights to be free from
23 excessive force, punishment without due process of law, cruel and unusual punishment, and all rights
24 guaranteed under the Fourth and Fourteenth Amendments.

25 31. The improper and unjustified use of deadly force used was unreasonable and
26 excessive and performed with a deliberate indifference to the safety and welfare of Noe Rojas.

27 32. The shooting of a cornered man posing no risk of harm to person or property is
28 objectively unreasonable and the actions of the defendants in that regard were such that no
reasonable officer would have considered the use of force to be justified thereby violating Noe

1 Rojas' Fourth Amendment guarantee to be free from unreasonable seizures thereby causing the
2 above pled deprivation of substantive due process.

3 33. The deprivation of the rights alleged above has destroyed the Constitutional rights of
4 his mother JOSEFA GODINEZ MERIDA to the familial love, society and companionship of her son
5 Noe Rojas which is protected by the substantive due process clause of the Fourteenth Amendment.

6 34. The conduct alleged herein violated Noe Rojas' rights alleged above thereby resulting
7 in a deprivation of plaintiffs' rights alleged above which has legally, proximately, foreseeably and
8 actually caused plaintiffs to suffer emotional distress, pain and suffering, and further damages
9 according to proof at the time of trial.

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11 **IV.**
12 **SECOND CAUSE OF ACTION**
13 **Right of Association – 42 U.S.C. 1983 Monell**
14 **[By Plaintiff Josefa Godinez Merida against City of San Diego, San Diego Police Department,**
15 **Lansdowne and Does 1-20]**

16 35. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same
17 herein by this reference as if those paragraphs were set forth in full herein.

18 36. The CITY, the DEPARTMENT and Defendant LANSDOWNE, also maintained a
19 custom, policy or practice, within the meaning of Monell, of using excessive force against Latino
20 males. The CITY also maintained an unconstitutional force policy regarding the use of alternative
21 force.

22 37. The defendants knew it should arm and train its officers in the use of alternative uses
23 of force such as the taser or stun-gun. Defendants knew for over a year that it could save lives by
24 training its deputies in the use of alternative force and changing its policy regarding use of force so
25 that an alternative to deadly force was available to the deputies.

26 38. This unconstitutional policy and refusal to train and employ tasers was a direct cause
27 of the death of Noe Rojas in this case.

28 39. The deprivation of the rights alleged above has destroyed the Constitutional rights
JOSEFA GODINEZ MERIDA to the familial love, society and companionship of her son Noe Rojas

1 which is protected by the substantive due process clause of the Fourteenth Amendment.

2 40. The conduct alleged herein has legally, proximately, foreseeably and actually caused
3 plaintiffs to suffer emotional distress, pain and suffering, and further damages according to proof at
4 the time of trial.

5
6 **V.**

7 **THIRD CAUSE OF ACTION**

8 **Wrongful Death – 42 U.S.C. §§ 1983, 1988**

9 **[By the Estate of Noe Rojas against Defendants Pearson, Galante and Does 1-20]**

10 41. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same
11 herein by this reference as if those paragraphs were set forth in full herein.

12 42. Defendants Pearson and Galante and DOES 1-20, inclusive, acting under color of
13 state law, committed wrongful acts which proximately caused the death of Noe Rojas.

14 43. Specifically, the defendants Pearson and Galante and DOES 1-20, inclusive, deprived
15 Noe Rojas of his rights under the United States Constitution to be free from the use of excessive
16 force by law enforcement, punishment without due process and unlawful stop, search and seizure
17 without reasonable suspicion, probable cause and due process. These acts resulted in the death of
18 Noe Rojas.

19 44. By these acts, the defendants violated Noe Rojas' Constitutional rights to be free from
20 excessive force, punishment without due process of law, cruel and unusual punishment, and all rights
21 guaranteed under the Fourth and Fourteenth Amendments.

22 45. The officers used excessive force as alleged above against Noe Rojas, with a purpose
23 to cause harm that is unrelated to the legitimate use of force.

24 46. The force was used to make Noe Rojas suffer and to punish him.

25 47. The force used was unreasonable and performed with a deliberate indifference to the
26 safety and welfare of Noe Rojas.

27 48. The shooting of a teenage boy posing no risk of harm to person or property is
28 objectively unreasonable. No reasonable officer would have considered the use of force to be
justified thereby violating Rojas' Fourth Amendment guarantee to be free from unreasonable
seizures.

VI.
FOURTH CAUSE OF ACTION
Wrongful Death – 42 U.S.C. §§ 1983, 1988 Monell
**[By the Estate of Noe Rojas against the City of San Diego, San Diego Police Department,
Lansdowne and Does 1-20]**

49. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same herein by this reference as if those paragraphs were set forth in full herein.

50. The CITY, the DEPARTMENT, LANSDOWNE and DOES 1-20 also maintained a custom, policy or practice, within the meaning of Monell, of using excessive force against Latino males.

51. The CITY, the DEPARTMENT, LANSDOWNE and DOES 1-20 also maintained an unconstitutional force policy regarding the use of alternative force. Defendants knew it should arm and train its officers in the use of alternative uses of force such as the taser or stun-gun.

52. Defendants knew for over a year that it could save lives by training its deputies in the use of alternative force and changing its policy regarding use of force so that an alternative to deadly force was available to the officers.

53. The conduct alleged herein violated Noe Rojas' rights alleged above, thereby resulting in a deprivation of plaintiff' rights alleged above which has legally, proximately, foreseeably and actually caused plaintiffs to suffer emotional distress, pain and suffering, and further general and special damages according to proof at the time of trial.

VII.
FIFTH CAUSE OF ACTION
Excessive Force – 42 U.S.C. 1983
[By the Estate of Noe Rojas against Pearson, Galante and Does 1-20]

54. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same herein by this reference as if those paragraphs were set forth in full herein.

55. Defendants Pearson and Galante and DOES 1-20, inclusive, acting under color of state law, committed wrongful acts which proximately caused the death of Noe Rojas.

56. Specifically, the defendants Pearson and Galante and DOES 1-20, inclusive, deprived Noe Rojas of his rights under the United States Constitution to be free from the use of excessive

1 force by law enforcement, punishment without due process and unlawful stop, search and seizure
2 without reasonable suspicion, probable cause and due process. These acts resulted in the death of
3 Noe Rojas.

4 57. By these acts, the defendants violated Noe Rojas' constitutional rights to be free from
5 excessive force, punishment without due process of law, cruel and unusual punishment, and all rights
6 guaranteed under the Fourth and Fourteenth Amendments.

7 58. The defendants used excessive force as alleged above against Noe Rojas, with a
8 purpose to cause harm that is unrelated to the legitimate use of force.

9 59. The force was used to make Noe Rojas suffer and to punish him.

10 60. The force used was unreasonable and performed with a deliberate indifference to the
11 safety and welfare of Noe Rojas.

12 61. The shooting of an unarmed teenager posing no risk of harm is objectively
13 unreasonable. No reasonable officer would have considered the use of force to be justified.

14 62. The conduct alleged herein violated Noe Rojas' rights alleged above, thereby
15 resulting in a deprivation of plaintiff' rights alleged above which has legally, proximately,
16 foreseeably and actually caused plaintiffs to suffer emotional distress, pain and suffering, and further
17 general and special damages according to proof at the time of trial.

18 **VIII.**
19 **SIXTH CAUSE OF ACTION**

20 **Excessive Force – 42 U.S.C. 1983 Monell**

21 **[By the Estate of Noe Rojas against the City of San Diego, San Diego Police Department,**
22 **Lansdowne and Does 1-20]**

23 63. The CITY, the DEPARTMENT, LANSDOWNE and DOES 1-20 maintained a
24 custom, policy or practice, within the meaning of Monell, of using excessive force.

25 64. The CITY, the DEPARTMENT, LANSDOWNE and DOES 1-20 also maintained an
26 unconstitutional force policy regarding the use of alternative force. Defendants knew it should arm
27 and train its officers in the use of alternative uses of force such as the taser or stun-gun.

28 65. Defendants knew for over a year that it could save lives by training its deputies in the
use of alternative force and changing its policy regarding use of force so that an alternative to deadly
force was available to the officers.

66. The conduct alleged herein violated Noe Rojas' rights alleged above, thereby resulting in a deprivation of plaintiff's rights alleged above which has legally, proximately, foreseeably and actually caused plaintiffs to suffer emotional distress, pain and suffering, and further general and special damages according to proof at the time of trial.

IX.
SEVENTH CAUSE OF ACTION
Failure to Properly Screen and Hire: Monell

42 U.S.C. § 1983

[By the Estate of Noe Rojas against the City of San Diego, San Diego Police Department, Lansdowne and Does 1-20]

67. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same herein by this reference as if those paragraphs were set forth in full herein.

68. The CITY, the DEPARTMENT, LANSDOWNE, and DOES 1-20 as a matter of custom, practice and policy, failed to adequately and properly screen and hire the defendant employees.

69. The failure of the defendants, their agents, servants and employees to properly screen and hire the defendant police officers as a matter of policy, custom and practice, in the exercise of their functions, was deliberately indifferent to the Constitutional rights of plaintiff and done with conscious disregard for the dangers of harm and injury to the plaintiff and others similarly situated.

70. Due to the acts of the defendants, the failure to properly screen and hire police officers and the continued employment of the defendant police officers present a clear and present danger to the residents of the city of San Diego.

71. The lack of adequate screening and hiring practices by the defendants evince deliberate indifference to the rights of plaintiff and others in his position.

72. Therefore, these defendants, with deliberate indifference, disregarded a duty to protect the public from official misconduct.

73. The conduct alleged herein violated Mr. Rojas' rights alleged above which has legally, proximately, foreseeably and actually caused Mr. Rojas to suffer emotional distress, pain and suffering, and further damages according to proof at the time of trial.

X.
EIGHTH CAUSE OF ACTION
Failure to Properly Train
42 U.S.C. § 1983

**[By the Estate of Noe Rojas against the City of San Diego, San Diego Police Department,
Lansdowne and Does 1-20]**

74. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same herein by this reference as if those paragraphs were set forth in full herein.

75. The CITY, the DEPARTMENT, LANSDOWNE, and DOES 1-20 as a matter of custom, practice and policy, failed to maintain adequate and proper training for police officers in the department necessary to educate the officers as to the Constitutional rights of arrestees; to prevent the consistent and systematic use of excessive force by arresting officers; and to prevent the excessive force and extra judicial punishment of potential arrestees by officers.

76. The CITY, the DEPARTMENT, LANSDOWNE, and DOES 1-20 failed to provide adequate training to police officers that hold the power, authority, insignia, equipment and arms entrusted to them.

77. Defendants failed to promulgate and enforce adequate policies and procedures related to alternatives to the use of deadly force, including the taser or stun-gun.

78. Said custom, practice and policy included a failure to adequately investigate, supervise and discipline offending officers which fostered the custom, practice and policy within the San Diego Sheriff's Department which resulted in the above-pled injuries to Noe Rojas.

79. Therefore, these defendants, with deliberate indifference, disregarded a duty to protect the public from official misconduct.

80. The failure to promulgate or maintain constitutionally adequate policies regarding training was done with deliberate indifference to the rights of plaintiff and others in his position.

81. The Constitutionally infirm lack of adequate training as to the officers in this case caused plaintiff's damages.

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XI.
NINTH CAUSE OF ACTION

Failure to Properly Supervise and Discipline

42 U.S.C. § 1983

**[[By the Estate of Noe Rojas against the City of San Diego, San Diego Police Department,
Lansdowne and Does 1-20]**

82. Plaintiffs reallege all prior paragraphs of this complaint and incorporate the same herein by this reference as if those paragraphs were set forth in full herein.

83. The CITY, the DEPARTMENT, LANSDOWNE and DOES 1-20 failed to provide adequate supervision and discipline to police officers that hold the power, authority, insignia, equipment and arms entrusted to them. Defendants failed to promulgate and enforce adequate policies and procedures related to alternatives to the use of deadly force, including the taser or stun-gun.

84. Said custom, practice and policy included a failure to adequately investigate, supervise and discipline offending officers which fostered the custom, practice and policy within the San Diego Sheriff's Department which resulted in the above-pled injuries to Noe Rojas.

85. Therefore, these defendants, with deliberate indifference, disregarded a duty to protect the public from official misconduct.

86. The failure to promulgate or maintain constitutionally adequate policies regarding training, investigation, supervision and discipline was done with deliberate indifference to the rights of plaintiff and others in his position.

87. The Constitutionally infirm lack of adequate training as to the officers in this case caused plaintiff's damages.


WHEREFORE, plaintiff pleads for judgment as follows:

1. General damages, including emotional distress, according to proof at the time of trial;
2. Special damages according to proof at the time of trial;
3. Any further declaratory relief as this Court deems just;
4. Costs of suit incurred herein; and
5. Exemplary damages and attorney fees.

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DATED: February 6, 2009

Law Offices of Eugene G. Iredale

By: 
Eugene G. Iredale, Esq., attorney for
JOSEFA GODINEZ MERIDA and
ESTATE OF NOE ROJAS

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JOSEFA GODINEZ MERIDA, an individual and ESTATE OF NOE ROJAS, by its personal representative Josefa Godinez Merida,

(b) County of Residence of First Listed Plaintiff Mexico

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Eugene G Iredale, 105 West F Street, San Diego, Ca 92101
(619)233-1525

DEFENDANTS

FILED
City of San Diego, Jack Pearson, Paul Galante, San Diego Police Department, William Langsdorne, City of San Diego, et al
County of Residence of First Listed Defendant City of San Diego, et al

(IN U.S. PLAINTIFF CASES ONLY, COURT)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known) *UY*

DEPUTY

'09 CV 0227 BEN AJB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only) *RTF DEF*
☒ Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
☐ Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
☐ Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. 1983
Brief description of cause:
Violation of Plaintiff's civil rights / *Excessive force*

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2/6/09

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT # *159801*

AMOUNT

\$350

APPLYING IFP

JUDGE

MAG. JUDGE

CR

LAC

2/6/09

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

CF 159801 - TC

February 06, 2009
16:18:56

Civ Fil Non-Pris

Case #: 09CV0227

Judge: ROGER T BENITEZ

Amount: \$350.00 CK

Check #: 1922

total-> \$350.00

RE: MIRIDA VS CITY OF SAN DIEGO